

***[NO MINUTES WERE GENERATED ON MONDAY,
FEBRUARY 13, 2006, DUE TO THE COURT'S
OBSERVANCE OF LINCOLN'S BIRTHDAY DAY.]***

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**SUPREME COURT MINUTES
TUESDAY, FEBRUARY 14, 2006
SAN FRANCISCO, CALIFORNIA**

S122590

FREEMAN (FRED H.) ON H.C.
Supplemental briefing ordered

The parties are directed to file supplemental
briefs addressing the following issues:

1. Has a violation of *People v. Wheeler* (1978)
22 Cal.3d 258 or *Batson v. Kentucky* (1986) 476 U.S. 79
been stated if the habeas corpus record fails to establish
that the excused juror was in fact a member of the
cognizable group asserted by the party challenging the
exercise of the peremptory challenge?

2. Has a violation of *People v. Wheeler, supra*,
or *Batson v. Kentucky, supra*, been stated if the party's
exercise of a peremptory challenge was based on
permissible and impermissible reasons? In other words,
does a peremptory challenge based on mixed motives
violate *Wheeler* or *Batson*? (See *People v. Schmeck*
(2005) 37 Cal.4th 240, 275-276.)

Simultaneous supplemental briefs addressing
these issues shall be served and filed on or before
February 21, 2006. Simultaneous response briefs may
be served and filed within seven days after the last brief
in the first round is filed. All briefs shall be served and
filed in the San Francisco Office of the Court Clerk.

S140055

ORTIZ (DANIEL) ON H.C.
Petition ordered withdrawn